

117TH CONGRESS
2D SESSION

S. 3905

AN ACT

To prevent organizational conflicts of interest in Federal
acquisition, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Preventing Organiza-
3 tional Conflicts of Interest in Federal Acquisition Act”.

4 **SEC. 2. PREVENTING ORGANIZATIONAL CONFLICTS OF IN-**
5 **TEREST IN FEDERAL ACQUISITION.**

6 (a) IN GENERAL.—Not later than 18 months after
7 the date of the enactment of this Act, the Federal Acquisi-
8 tion Regulatory Council shall revise the Federal Acquisi-
9 tion Regulation—

10 (1) to provide and update—

11 (A) definitions related to specific types of
12 organizational conflicts of interest, including
13 unequal access to information, impaired objec-
14 tivity, and biased ground rules;

15 (B) definitions, guidance, and illustrative
16 examples related to relationships of contractors
17 with public, private, domestic, and foreign enti-
18 ties that may cause contract support to be sub-
19 ject to potential organizational conflicts of in-
20 terest, including undue influence; and

21 (C) illustrative examples of situations re-
22 lated to the potential organizational conflicts of
23 interest identified under this paragraph, includ-
24 ing an example of the awarding by a Federal
25 regulatory agency of a contract for consulting
26 services to a contractor if employees of the con-

1 tractor performing work under such contract
2 are permitted by the contractor to simulta-
3 neously perform work under a contract for a
4 private sector client under the regulatory pur-
5 view of such agency;

6 (2) to provide executive agencies with sollicita-
7 tion provisions and contract clauses to avoid or miti-
8 gate organizational conflicts of interest, for agency
9 use as needed, that require contractors to disclose
10 information relevant to potential organizational con-
11 flicts of interest and limit future contracting with re-
12 spect to potential conflicts of interest with the work
13 to be performed under awarded contracts;

14 (3) to allow executive agencies to tailor such so-
15 licitation provisions and contract clauses as nec-
16 essary to address risks associated with conflicts of
17 interest and other considerations that may be unique
18 to the executive agency;

19 (4) to require executive agencies—

20 (A) to establish or update as needed agen-
21 cy conflict of interest procedures to implement
22 the revisions to the Federal Acquisition Regula-
23 tion made under this section; and

1 (B) to periodically assess and update such
2 procedures as needed to address agency-specific
3 conflict of interest issues; and

4 (5) to update the procedures set forth in section
5 9.506 of the Federal Acquisition Regulation to per-
6 mit contracting officers to take into consideration
7 professional standards and procedures to prevent or-
8 ganizational conflicts of interest to which an offeror
9 or contractor is subject.

10 (b) EXECUTIVE AGENCY DEFINED.—In this section,
11 the term “executive agency” has the meaning given the
12 term in section 133 of title 41, United States Code.

Passed the Senate August 1, 2022.

Attest:

Secretary.

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